

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION

CHAUNCY TOBIAS GRAY, )  
                          )  
Petitioner,           )  
                          )  
v.                     ) Civil Action  
                          ) No. 08-3146-CV-S-DW-H  
MARTY ANDERSON, Warden, )  
United States Medical Center, )  
                          )  
Respondent .          )

**ORDER AND JUDGMENT**

Pursuant to the governing law and in accordance with Local Rule 72.1 of the United States District Court for the Western District of Missouri, the petition herein for a writ of habeas corpus was referred to the United States Magistrate Judge for preliminary review under the provisions of 28 U.S.C. § 636(b).

The United States Magistrate Judge has completed his preliminary review of the petition herein and has submitted to the undersigned a report and recommendation that petitioner be denied leave to proceed in forma pauperis and that the petition filed herein for a writ of habeas corpus be dismissed without prejudice.

Petitioner has filed exceptions to the report and recommendation of the magistrate judge, in which he continues to assert that he should be resentenced within the corrected sentencing range.

Having fully reviewed the record de novo, the Court agrees with the magistrate that the petition should be dismissed on the grounds that it is not properly before this Court. Regardless of petitioner's assertions, he has failed to establish that the 28 U.S.C. § 2255 remedy is inadequate or ineffective to address his complaints.

Based on the file and records in this case, it is concluded that the findings of fact, conclusions

of law, and proposed actions of the magistrate judge are correct and should be approved. It is therefore

ORDERED that petitioner's exceptions filed herein be, and they are hereby, CONSIDERED and OVERRULED. It is further

ADJUDGED that the petition for writ of habeas corpus be, and it is hereby, dismissed without prejudice.<sup>1</sup>

/s/ Dean Whipple  
DEAN WHIPPLE  
United States District Judge

Date: August 5, 2008

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<sup>1</sup> Petitioner has prepaid the filing fee, and does not request leave to proceed in forma pauperis.